

Message Text

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DRAFTED BY EUR/RPM:RHFROWICK

APPROVED BY EUR:AAHARTMAN

C:HSonnenfeldt

S:JCOVEY

S/S-O: APSHANKLE

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FM SECSTATE WASHDC

TO USMISSION GENEVA IMMEDIATE

S E C R E T STATE 142540

NODIS

E.O. 11652: GDS

TAGS: PFOR CSCE WB

SUBJECT: CSCE: QUADRIpartite RIGHTS AND RESPONSIBILITIES

- PROBLEM

REF: GENEVA 4490

FOR AMBASSADOR SHERER FROM SONNENFELDT AND HARTMAN

1. FOLLOWING IS TEXT OF LETTER FROM THE SECRETARY TO
SAUVAGNARGUES SETTING FORTH OUR CURRENT VIEWS ON
QRR ISSUE:

BEGIN TEXT

DEAR JEAN:

I VERY MUCH APPRECIATE THE EFFORTS YOU HAVE PERSONALLY
BEEN MAKING TO PROTECT QUADRIpartite RIGHTS REGARDING
BERLIN AND GERMANY AS A WHOLE IN THE CSCE CONTEXT IN A
FASHION WHICH ACCOMMODATES THE LEGITIMATE CONCERNS WE

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SHARE WITH THE NEUTRALS REGARDING THE BREZHNEV DOCTRINE.

IT IS A COMPLEX NEGOTIATING PROBLEM.

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IN RESPONSE TO YOUR QUESTION, THE DIFFICULTIES WE EXPRESSED WITH YOUR FORMULA STEMMED, IN PART, FROM A DIFFERENT APPRECIATION OF THE QUADRIpartite AGREEMENT AND QUADRIpartite DECLARATION. WE VIEW NEITHER DOCUMENT AS PROVIDING A COMPREHENSIVE DEFINITION OF OUR RESPONSIBILITIES. IN VIEW OF THE KNOWN DIFFERENCES IN ALLIED AND SOVIET/GDR POSITIONS, THERE IS A REAL QUESTION NOT ONLY OF DEFINITION, BUT ALSO OF JUST WHAT HAS BEEN RECOGNIZED AND BY WHOM. ALSO, ARTICLE 107 OF THE UN CHARTER, WHICH HAS PROVIDED THE BASIC ALLIED LEGAL PROTECTION, USES THE TERM "RESPONSIBILITY" WITHOUT QUALIFICATION AND WE ARE RELUCTANT TO APPEAR TO ACCEPT A POTENTIAL NEW RESTRICTION OR IMPOSE A NEW LEGAL TEST. FURTHER, THE QUALIFIER SEEMS TO BE ADAPTED TO THE SOVIET VIEW OF "CONTRACTUAL" AS OPPOSED TO "ORIGINAL" ALLIED RIGHTS, OBLIGATIONS AND RESPONSIBILITIES. I AGREE THAT THESE RESERVATIONS ARE SOMEWHAT JURIDICAL, YET THERE IS A POLITICAL PURPOSE IN ASSURING THAT CSCE DOES NOT PROVIDE ANY OPENINGS TO BE EXPLOITED AGAINST OUR LEGAL POSITION IN BERLIN.

IT MIGHT BE ADVISABLE TO TURN TO THE APPROACH OF ELIMINATING ALL MENTION OF THE WORD "RESPONSIBILITIES." THIS IS CERTAIN TO MEET NEUTRAL APPROVAL, IN VIEW OF THE SWISS TEXT, AND HAS ALREADY PASSED THE ESSENTIAL HURDLE OF APPROVAL BY THE FOUR WESTERN ALLIES. THE WORD WAS NOT IN THE ORIGINAL USSR TEXT AND, WHILE IT EVIDENTLY APPEALS TO THEM, I WONDER IF THEY WOULD HOLD OUT FOR IT AT THIS STAGE OF THE CONFERENCE IF FACED WITH ALLIED AND NEUTRAL AGREEMENT. THIS SOLUTION HAS THE ADVANTAGE OF BEING LESS SUSCEPTIBLE TO BREZHNEV DOCTRINE ABUSE THAN EVEN A QUALIFIED REFERENCE TO "RESPONSIBILITIES," WHILE PROVIDING UNCOMPLICATED AND ADEQUATE COVERAGE FOR OUR BERLIN POSITION.

ANOTHER TACK MIGHT BE TO QUALIFY "RESPONSIBILITIES" WITH "UNDER OR IN CONFORMITY WITH INTERNATIONAL LAW," AN

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APPROACH WHICH THE FOUR ALLIES AND THE USSR HAVE ALREADY FOUND ACCEPTABLE. ALTHOUGH THE NEUTRALS HAVE NOT BEEN ENTHUSIASTIC ABOUT IT IN THE PAST, IT SHOULD MEET THEIR NEEDS AND, WITH SUITABLE FIRMNESS, WE MIGHT BE ABLE TO BRING THEM TO ACCEPT IT.

FINALLY, WE COULD ACCEPT THE FOLLOWING MINOR MODIFICATION OF YOUR FORMULA:

"...CANNOT AND WILL NOT AFFECT THEIR RIGHTS, OBLIGATIONS
AND SPECIFICALLY DEFINED OR RECOGNIZED RESPONSIBILITIES,

OR THE CORRESPONDING TREATIES, AGREEMENTS AND
ARRANGEMENTS."

THIS TEXT IS NOT ENTIRELY UNTROUBLESOME, EITHER FROM THE
POINT OF VIEW OF PROTECTION OF FOUR POWER RESPONSIBILITIES
OR EXCLUSION OF THE BREZHNEV DOCTRINE, BUT WE COULD ASK
OUR ALLIES TO CONSIDER IT.

IN VIEW OF YOUR SPECIAL EXPERTISE AND YOUR LEADERSHIP IN
NEGOTIATION OF THIS TEXT, YOU ARE IN THE BEST POSITION TO
JUDGE THE NEXT STEPS THAT THE ALLIES SHOULD TAKE TO MOVE
RAPIDLY TO A SATISFACTORY CONCLUSION ON THIS DIFFICULT
SUBJECT. WARM REGARDS, HENRY A. KISSINGER.

END TEXT.

2. THE SECRETARY HAS DISCUSSED THE QRR PROBLEM THIS
WEEK WITH GENSCHER, WHO CAN SUPPORT EITHER OF FIRST TWO
CHANGES SUGGESTED IN OUR LETTER TO SAUVAGNARGUES.
GENSCHER DISLIKES, HOWEVER, THE MINOR MODIFICATIONS OF
FRENCH FORMULA PUT FORTH IN OUR FALLBACK POSITION BECAUSE
HE THINKS IT DOES NOT PROVIDE SUFFICIENT PROTECTION OF
ALLIED RIGHTS. THE SECRETARY HAS ASSURED GENSCHER THAT
WE WOULD SUPPORT GERMAN DESIRES IN MOVING TOWARD A FINAL
COMPROMISE ON THIS ISSUE.

3. YOU SHOULD PURSUE SEARCH FOR A FINAL COMPROMISE ON
QRR TEXT WITH OTHER REPRESENTATIVES OF BONN GROUP AT
GENEVA, BEARING IN MIND OUR DESIRE TO SUPPORT GERMAN
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WISHES WHILE LEAVING INITIATIVE PRIMARILY TO THE FRENCH.

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